

1

2 SUPREME COURT OF THE STATE OF NEW YORK
3 COUNTY OF QUEENS

3 -----X
4 ANNA THOMAS,

5

PLAINTIFF,

6

-against-

Index No:
20767/07

7 CIRCUIT CITY STORES., INC., "JOHN DOES",
8 said named being fictitious and is intended
9 to represent the unknown employees of the
defendant.

9

DEFENDANTS.

10 -----X

11 DATE: April 4, 2008

12 TIME: 10:30 a.m.

13

14

15 EXAMINATION BEFORE TRIAL of the
16 Plaintiff, ANNA THOMAS, taken by the Defendant,
17 pursuant to a Court Order, held at the offices
18 of SHAEVITZ & SHAEVITZ, ESQS., 148-55 Hillside
19 Avenue, Jamaica, New York, before a Notary
20 Public of the State of New York.

21

22

23

24

25

1

2 A P P E A R A N C E S:

3

4 SHAEVITZ & SHAEVITZ, ESQS.
5 Attorneys for the Plaintiff
148-55 Hillside Avenue
Jamaica, New York 11435

6

7 BY: STUART SEARS, ESQ.

8

9 RENDE, RYAN & DOWNES, LLP
10 Attorneys for the Defendant
CIRCUIT CITY STORES, INC.
202 Mamaroneck Avenue
11 White Plains, New York 10601

12 BY: CHRISTOPHER J. WHITTON, ESQ.
File #: S-125

13

14

15 ALSO PRESENT:

16 ELLIE KOTEAS, GREEK INTERPRETER

17

18 * * *

19

20

21

22

23

24

25

1

2 **221. UNIFORM RULES FOR THE**
3 **CONDUCT OF DEPOSITIONS**

4 **221.1 Objections at Depositions**

5 (a) Objections in general. No objections
6 shall be made at a deposition except those
7 which, pursuant to subdivision (b), (c) or (d)
8 of Rule 3115 of the Civil Practice Law and
9 Rules, would be waived if not interposed, and
10 except in compliance with subdivision (e) of
such rule. All objections made at a
deposition shall be noted by the officer before
whom the deposition is taken, and the answer
shall be given and the deposition shall proceed
subject to the objections and to the right of a
person to apply for appropriate relief pursuant
to Article 31 of the CPLR.

11 (b) Speaking objections restricted.

12 Every objection raised during a deposition
13 shall be stated succinctly and framed so as not
14 to suggest an answer to the deponent and, at
the request of the questioning attorney, shall
15 include a clear statement as to any defect in
form or other basis of error or irregularity.
16 Except to the extent permitted by CPLR Rule
3115 or by this rule, during the course of the
examination persons in attendance shall not
make statements or comments that interfere with
the questioning.

17 **221.2 Refusal to answer when objection is made**

18 A deponent shall answer all questions at
19 a deposition, except (i) to preserve a
privilege or right of confidentiality, (ii) to
enforce a limitation set forth in an order of
the court, or (iii) when the question is
20 plainly improper and would, if answered, cause
significant prejudice to any person. An
attorney shall not direct a deponent not to
answer except as provided in CPLR Rule 3115 or
this subdivision. Any refusal to answer or
direction not to answer shall be accompanied by
a succinct and clear statement of the basis
therefor. If the deponent does not answer a
question, the examining party shall have the
right to complete the remainder of the
deposition.

1

2 **221. UNIFORM RULES FOR THE
 CONDUCT OF DEPOSITIONS**

3

4 **221.3 Communication with the deponent**

5 An attorney shall not interrupt the
6 deposition for the purpose of communicating
7 with the deponent unless all parties consent or
8 the communication is made for the purpose of
9 determining whether the question should not be
10 answered on the grounds set forth in section
11 221.2 of these rules and, in such event, the
12 reason for the communication shall be stated
13 for the record succinctly and clearly.

14

15

16

17

18

19

20

21

22

23

24

25

10 **IT IS FURTHER STIPULATED AND AGREED** that
11 the transcript may be signed before any Notary
12 Public with the same force and effect as if
13 signed before a clerk or a Judge of the court.

14 **IT IS FURTHER STIPULATED AND AGREED** that
15 the examination before trial may be utilized
16 for all purposes as provided by the CPLR.

17 **IT IS FURTHER STIPULATED AND AGREED** that
18 all rights provided to all parties by the CPLR
19 cannot be deemed waived and the appropriate
20 sections of the CPLR shall be controlling with
21 respect hereto.

22 **IT IS FURTHER STIPULATED AND AGREED** by
23 and between the attorneys for the respective
24 parties hereto that a copy of this examination
25 shall be furnished, without charge, to the
 attorneys representing the witness testifying
 herein.

1

2 E L L I E K O T E A S ,

3 a Greek interpreter, solemnly swore to
4 translate the following questions from
5 English to Greek and answers from Greek to
6 English:

7

8 A N N A T H O M A S ,

9 called as a witness, having been first duly
10 sworn, through an interpreter, by a Notary
11 Public of the State of New York, was
12 examined and testified as follows:

13

14 EXAMINATION BY

15 MR. WHITTON

16 Q. Please state your name for the
17 record.

18 A. Anna Thomas.

19 Q. Where do you reside?

20 A. 99-10 60th Avenue, Apartment 5J,
21 Corona, New York 11368.

22 Q. Good morning, ma'am. My name is
23 Christopher Whitton. I represent Circuit City.

24 I'm going to have some questions
25 for you today.

1 Thomas

2 A. Okay.

3 Q. Before we begin just some ground
4 rules. Please, wait for me to fully ask my
5 question and for the interpreter to interpret
6 it before you respond.

7 A. Until you finish the questions.

8 Q. Very good.

9 If you don't understand the
10 question, will you, please, tell me?

11 A. Okay.

12 Q. The address that you provided in
13 Corona, how long have you lived there?

14 A. Thirty-six years.

15 Q. Presently, do you live there with
16 anyone?

17 A. With my husband and son.

18 Q. What is your husband's name?

19 A. Raymond Thomas.

20 Q. Your son, what is his name and
21 approximate age?

22 A. Tony Thomas.

23 Q. Tony?

24 A. Thomas.

25 Q. How old is Tony?

1 Thomas

2 A. Forty-three.

3 Q. Back in December of 2006, was your
4 husband and son living with you at that
5 address?

6 A. Yes.

7 Q. Ma'am, do you work right now out of
8 the home?

9 A. No. I'm on pension.

10 Q. When was the last time you worked
11 outside of the home?

12 A. In 1996 I worked in a bank,

13 Crossland Savings in accounting in Brooklyn.

14 Q. It was in the accounting department
15 that you worked?

16 A. Yes.

17 Q. How long did you work there at that
18 bank?

19 A. Ten years. Previously I worked at
20 a different bank. Wells Fargo in 40 Wall
21 Street that was 1972 up until 1988

22 Q. And now you are retired collecting
23 a pension?

34 A Yes

25 Do you want to know how much?

1 Thomas

2 Q. No.

3 Thank you.

4 MR. SEARS: Just tell her she has
5 to worry about the questions.

6 MR. WHITTON: Off the record.

7 (Discussion held off the record.)

8 Q. You had an incident that occurred
9 back in December of 2006 that occurred at
10 Circuit City Stores; is that correct?

11 A. Yes. They injured me.

12 MR. WHITTON: Move to strike the
13 non-responsive portion.

14 Q. Do you remember what date that was?

15 A. I don't recall, but I have the
16 receipt from the stuff that I purchased which
17 might have the date.

18 Q. Were you there that day by yourself
19 or did you go with someone?

20 A. With my husband we were shopping

21 Q. Did you drive there or go by train
22 or something else?

A By foot because we don't live far

24 0 Where is this store?

25 A Queens Boulevard near Sears

1 Thomas

2 Q. This is the Rego Park area?

3 A. Right.

4 Q. Before this day, had you ever been
5 inside that Circuit City?

6 A. NO.

7 Q. So this was the first time you were
8 visiting the Rego Park Circuit City store?

9 A. It wasn't the first time. We had
10 previously purchased stuff, but that hadn't
11 happened to me.

12 Q. All I want to know is: Before the
13 day of this incident, had you ever visited this
14 Circuit City store?

15 A. No.

16 Q. Had you visited other Circuit City
17 Stores?

18 A. No. Because it's close to me.

19 Q. So is my understanding, right, that
20 before the day that you were hurt you had never
21 been to a Circuit City store?

22 A. NO.

23 Q. How many times have you ever been
24 to a Circuit City store?

A. My husband used to buy, you know,

4 Q. Does the date December 28th, 2006
5 refresh your memory as the day of this
6 incident?

7 A. Yes.

I will never forget it because I'm
in pain.

10 MR. WHITTON: Move to strike the
11 non-responsive portions.

12 Q. Before December 28th, 2006, did you
13 ever go to the Rego Park Circuit City store?

14 A. No.

15 Q. Do you remember what time you got
16 to the Circuit City store on December 28th,
17 2006?

18 A. Around two, to 2:30 because it was
19 a nice, sunny day, so we decided to walk up
20 there.

21 Q. What was the reason why you were
22 going to the store?

23 A. My husband, he buy -- I'm sorry.

24 My husband has a small recorder from there and
25 I wanted to purchase a recorder for my

1 Thomas

2 daughter-in-law's baby. A little one. Just
3 like that (indicating).

4 Q. How many children do you have?

5 A. I have four. Four boys.

6 Q. Do they live in the area?

7 A. No. One of my sons is married in
8 California. My other son is married in
9 Georgia. Then -- George lives in Bayside and
10 Antonio, the younger one, lives with me.

11 Q. Do you know if your son --

12 A. Because he's disabled.

Q. Tony is disabled?

14 A. Yes.

15 Q. Do you know if your son, Tony, had
16 ever been to this Circuit City store?

17 A. No.

18 Q. Your son, George, has he ever been
19 to this Circuit City store?

20 A. I have no idea because -- I don't
21 know because he does not live with me. He
22 shops at Best Buy. I don't know. I don't get
23 involved in what they buy.

24 Q. When you arrived at the Circuit
25 City store this day did you speak with anyone

1 Thomas

2 that worked there?

3 A. No. We -- only at the cashier
4 where we paid.

5 Q. When you paid for the things that
6 you were buying, was that before this incident
7 or after this incident?

A. Before. Prior to getting injured.

9 Q. During the time that you were
10 shopping in the store before this incident, did
11 you observe any commotions going on?

12 A. I didn't notice because we just buy
13 and then we leave.

14 Q. When you went to pay for the things
15 you were buying, was that at the front counter
16 towards the entrance of the store?

17 A. No. It was in the back because it
18 was empty.

19 Q. Can you describe for me where in
20 the back the counter was that you purchased
21 your items at?

22 A. Well, I went this way to the -- I
23 went this way to go to the door and my husband
24 was walking in front of me and it was at this
25 point that they pushed me and I knocked into